HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 1817 OF 1997

DATE: 25.1.2007

Between:

G. Shanti Prasad, S/o Late Satyanandam

…Petitioner

AND

1. The Managing Director, The Visakhapatnam Central Cooperative Stores Limited, Visakhapatnam.

….Respondent

HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 1817 OF 1997

ORAL ORDER:

Questioning the orders dated 13.12.1996 issued by the respondent terminating the petitioner's services in the respondent-Society, the present Writ Petition is filed.

Several contentions have been raised by Sri V. Jagapathi, learned counsel for the petitioner. It would suffice if his contention with regard to failure to furnish a copy of the enquiry report prior to the passing of the order of punishment, is taken note of. In the affidavit filed in support of the Writ Petition, petitioner has categorically stated that the show cause notice was not accompanied by a copy of the enquiry report and that, while issuing a show cause notice, the respondent had not given a copy of the enquiry report. As held by the Supreme Court in MANAGING DIRECTOR, ECIL VS. B. KARUNAKAR[1], failure to furnish a copy of the enquiry report prior to imposition of punishment vitiates the order of punishment. While holding that an order of punishment was liable to be set aside, as a copy of the enquiry report was not furnished to delinquent employee prior to imposition of punishment and without giving him an opportunity to submit his objections to the findings of the Enquiry Officer, the Supreme court held that in cases, where a copy of the enquiry

report is not furnished, a copy thereof, should be caused to be furnished to the delinquent employee and he should be given an opportunity to show cause as to how he was prejudiced on account of non-furnishing of a copy of the enquiry report.

Sri V. Jagapathi, learned counsel for the petitioner would submit that a copy of the enquiry report has not been furnished to the delinquent employee even after imposition of punishment or even during the pendency of the Writ Petition.

In the counter affidavit filed on behalf of the respondents, this fact is not denied. Since Sri P.B.Vijaya Kumar, learned counsel appearing for the respondent, was not present when the matter was taken up for hearing on 24.1.2007, the matter was listed under the caption 'for judgment' today. Even today, the learned counsel is not present nor is there any representation on his behalf.

In such circumstances, this court is not in a position to direct the respondents to have a copy of the enquiry report caused to be furnished to the petitioner and thereafter invite representations from him as to how he was prejudiced on account of the respondent's failure to furnish a copy of the enquiry report.

The impugned order of punishment is, therefore, quashed. The respondent is directed to cause a copy of the enquiry report to be furnished to the petitioner and give him an opportunity to show cause as to how he was prejudiced on account of the respondent's failure in not furnishing him a copy of the enquiry report prior to the imposition of the punishments and thereafter pass orders in accordance with law.

The Writ Petition is allowed and the impugned order is quashed. However, in the circumstances, without costs.

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RAMESH RANGANATHAN
, J

Dated: 25.1.2007
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[1] 1993 (4) SCC, 727